

OGC Has Reviewed

7-5423  
Alice *at* STAT  
Wheathen

Aug 19 1955

The Honorable  
 The Attorney General  
 Washington 25, D. C.

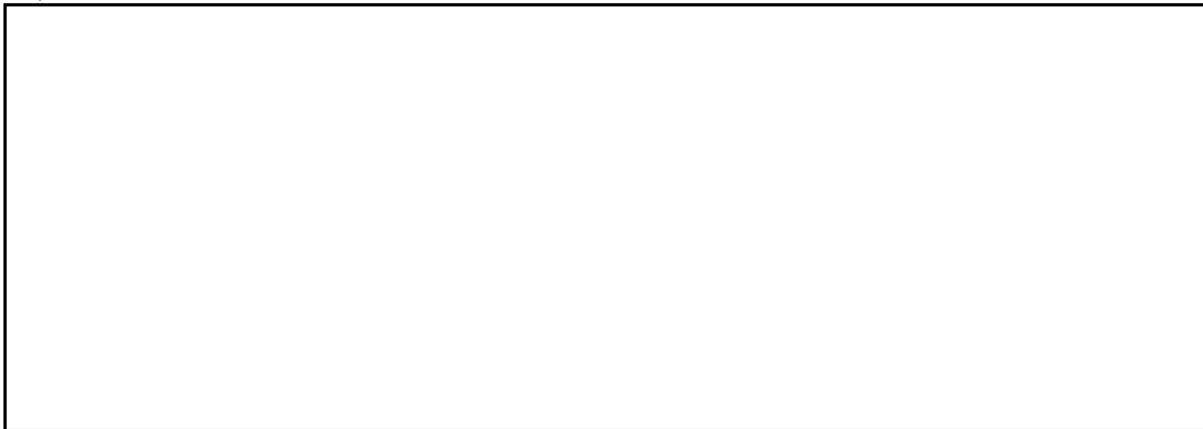
Dear Mr. Attorney General:

The issue presented in this letter is the following: Under existing legislation does the authority and responsibility to provide a headquarters building for the Central Intelligence Agency rest with the Director of Central Intelligence or the Administrator of General Services.

DCI Files

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We had hoped that, in this work, we would benefit from the advice and assistance of the General Services Administration while retaining ultimate authority and responsibility, and we stand ready today, as we have in the past, to work out an arrangement with the General Services Administration along these lines.

Recently, however, we have obtained and studied a copy of a letter from the Administrator of General Services to the Bureau of the Budget, dated August 26, 1955, copy enclosed, which states that if a decision is made contrary to their position that, as a matter of law, they have the responsibility for design and construction of the building, they believe it would be better to remove the General Services Administration from any further participation.

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In a conference which we had on 1<sup>st</sup> October with the Administrator of General Services and Mr. Percival F. Brundage, Deputy Director of the Bureau of the Budget, in an effort to find a practical solution to the problem, Mr. Mansure clearly reaffirmed the position stated in the above-mentioned letter.

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Sincerely,

Allen W. Dulles  
Director

**Enclosures (2)**

DCI

OGC:LRH:jeb

cc:✓ DCI (2)

DD/S

Director of Logistics  
Legislative Counsel  
General Counsel

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August 25, 1955

Honorable Percy Rappoport  
Assistant Director  
Bureau of the Budget  
Washington 25, D. C.

To: Design and Construction of  
Central Intelligence Agency  
Headquarters

Dear Mr. Rappoport:

As you know, a difference of opinion exists between this Administration and the Central Intelligence Agency as to which agency has responsibility for the design and construction of the CIA headquarters building authorized by Section 401, Title IV, Public Law 841, 84th Congress, approved July 15, 1955.

That law authorized the Director of Central Intelligence "to provide for" a headquarters installation for the Central Intelligence Agency at a land cost of not to exceed \$1,000,000, and a construction cost of not to exceed \$3,500,000. CIA was authorized to demolish temporary Government buildings in the District of Columbia equivalent to space to be that relinquished by CIA on occupancy of the new headquarters.

Section 501 of the above act further authorized proceeding with the facilities without regard to certain revised statutes relating to the expenditure of public funds for the acquisition of land and contracts for the construction of buildings.

Funds for the preparation of plans and specifications and for other purposes as authorized by Title IV of P. L. 841 were appropriated to CIA by the Supplemental Appropriation Act, 1955, P. L. 849, 84th Congress, approved August 4, 1955.

The CIA people contend that the authorization and appropriation to them confers upon our authority and places in them full and complete authority over and responsibility for the design and construction of the building. They say they intend to use our services in more or less an advisory capacity.

It is our position that, on a matter of law, responsibility for design and construction of the building is in CIA by virtue of our exclusive authority in the field of construction of general purpose office buildings derived from the Public Buildings Act of 1925, as amended.

Consideration has been given as to whether exception in Section 401 of the above act, of the applicability of R.S. 3134, as amended, supports the position of CIA. That statute reads as follows:

Honorable Percy Maggsport:

"No money shall be expended upon any public building until after sketch plans showing the tentative design and arrangement of such building, together with outline description and detailed estimate of the cost thereof shall have been made by the Administrator of General Services (except when otherwise authorized by law) \* \* \*"

Inclusion of the authorization for the construction of the CIA building in P.L. 141, which is essentially an act to authorize certain construction at military, naval and air force installations, appears to have been merely a matter of convenience. That the above exemption was not intended to have any applicability to the construction of the CIA building is clearly established by the Senate Committee on Armed Services, Report No. 64, on H. R. 489, later enacted as Public Law 141, wherein it is stated:

"Section 501 provides the authority to acquire land on which to provide family housing for military personnel. It also contains the customary language avoiding the application of certain sections of the Revised Statutes that impose unreasonable restrictions on the prosecution of a military construction program under conditions prevailing today."

Furthermore, testimony during hearings preceding enactment of above acts, shows that GSA worked with CIA in preparing the estimates upon which the legislation was based, and that the Senate Subcommittee on Real Estate and Military Construction of the Committee on Armed Services recognized that the work should be performed by a central construction agency properly equipped for the purpose and not by CIA. There was discussion as to whether the work would be done by the Corps of Engineers or GSA and it was at least implied that GSA would be expected to design and construct the building. See Committee Hearings on S. 1766 (H.R. 489) at pages 124, 135.

The authorizing law does not include an exemption from the Act of May 25, 1926, 44 Stat. 530, §31, as amended, 46 U.S.C.A. §11, §42, known as the Public Buildings Act of 1926. Sections 1 and 2 of this act read, respectively, in pertinent part as set out in title 46, U.S.C.A.:

"To enable the Administrator of General Services to provide suitable accommodations in the District of Columbia for the executive departments, and independent establishments of the Government \* \* \*, and for court-houses, post offices, immigration stations, custom-houses, marine hospitals, quarantine stations, and other public buildings of the classes under the control of the Administrator of General Services in the States, \* \* \* he is authorized and directed to acquire, by purchase, conveyance, or otherwise, such sites and buildings as he may deem necessary, and to cause to be constructed thereon, and upon lands belonging to the Government conveniently located and available for the purposes (but exclusive of military and naval reservations), adequate and suitable

### **Example: Party Structure**

buildings for any of the foregoing purposes, \* \* \* \* \* \* \* \* \* \* \*  
Provided further, That all sketches, plans, and estimates for buildings  
shall be approved by the Administrator of General Services and the  
heads of the executive departments which are to be located in such  
buildings.

"(a) The work of preparing designs and other drawings, estimates, specifications, and awarding of contracts, as well as the supervision of the work \* \* \* shall be performed by the Administrator of General Services, except as otherwise provided in this section."

The CIA headquarters building will be a general purpose office building which will have a gross floor area of approximately 2,300,000 square feet; basement, seven (7) floors, reinforced concrete frame; pile foundations; air conditioning; fluorescent lighting; ballrooms, shops and laboratory areas, and cafeteria.

Since July 1, 1970, the effective date of Reorganization Plan No. 16 of 1970 (44 Stat. 1770; 5 U.S.C. 1101-15, note) we have applied the criteria set forth in Section 2 of the Plan as determinative of the status of "other public buildings \*\*\* under the control of the Administrator of General Services." Without question, the CIA headquarters, on completion, would be an office building under our control for the purposes of operation, maintenance, and custody as is true of the buildings presently occupied by CIA.

We want to call attention, specifically to the provision quoted from Section 1 of the Public Buildings Act of 1926 which requires joint approval of the plans, etc., by the head of the agency to be located in a new building and myself as a matter of law and as a condition precedent to the exercise of our responsibilities under the Act. Even if this was not required by the law, it seems evidently proper to us a matter of policy as it assures compliance with all reasonable needs of a special nature of the agency initially designated to occupy the particular building.

The authorization to CIA is merely "to provide" for a building, without specification of the manner in which it was to be provided. In view of the legislative history of the authorizing law and our express authority for such construction, the applicability of which was not disputed, we feel there can be little doubt as to the soundness of our legal position.

In many similar cases in the past funds appropriated to other agencies for construction of general purpose office space and other structures have been transferred to us and we have performed the design and construction under the Public Buildings Act, supra, and the applicable regulations and procedures.

We worked with the CIA in the early planning stages and preparation of cost estimates and understood that design and construction would be performed by us. Therefore, we felt it unnecessary to insert even a provision requiring the authorizing or appropriating Act.

**Memorandum Party Report**

Aside from the purely legal position stated above, we feel very strongly as a matter of general policy that, if the Government is to have a central agency for design and construction of non-military public buildings, such as our Public Buildings Service in GSA, performance of all functions that fall within its sphere of responsibility should be assigned to it.

Our record shows that we have designed and constructed many similar general purpose office buildings as well as other structures with special features in complete cooperation with and to the satisfaction of the occupying agencies.

Economy and efficiency in the Federal construction can best be achieved with an organization staffed with personnel equipped with the professional qualifications, technical "know-how" and long experience in negotiation, awarding, administration and supervision of contracts with architects, engineers and contractors for the design and construction of public buildings.

Granting frequent special exemptions to agencies for their own design and construction activities unquestionably will destroy any effort on our part to achieve uniformity in construction cost and over-all economy and efficiency in the construction of general purpose and related office space for the Federal Government.

We estimated the cost of this building in accordance with the construction cost standards agreed upon between your office and mine for the lease purchase program.

To proceed with design and construction in the manner proposed by GSA would remove us from control and preclude us from assuring conformity to those standards.

This will might place the entire lease purchase program in jeopardy.

Accordingly, if a decision is made contrary to our position we believe that it would be better to remove us from any further participation in the design and construction of the building rather than risk an adverse effect on the lease purchase program.

An expression of your views will be appreciated.

Cordially yours,

*John P. Hanline*  
John P. Hanline  
Administrator

The Honorable  
The Attorney General  
Washington 25 D. C.

Dear Mr. Attorney General:

The issue presented in this letter is the following: Under existing legislation does the authority and responsibility to provide a headquarters building for the Central Intelligence Agency rest with the Director of Central Intelligence or the Administrator of General Services.

OGC

The legal phases of this matter are dealt with in the attached opinion and memorandum of law.

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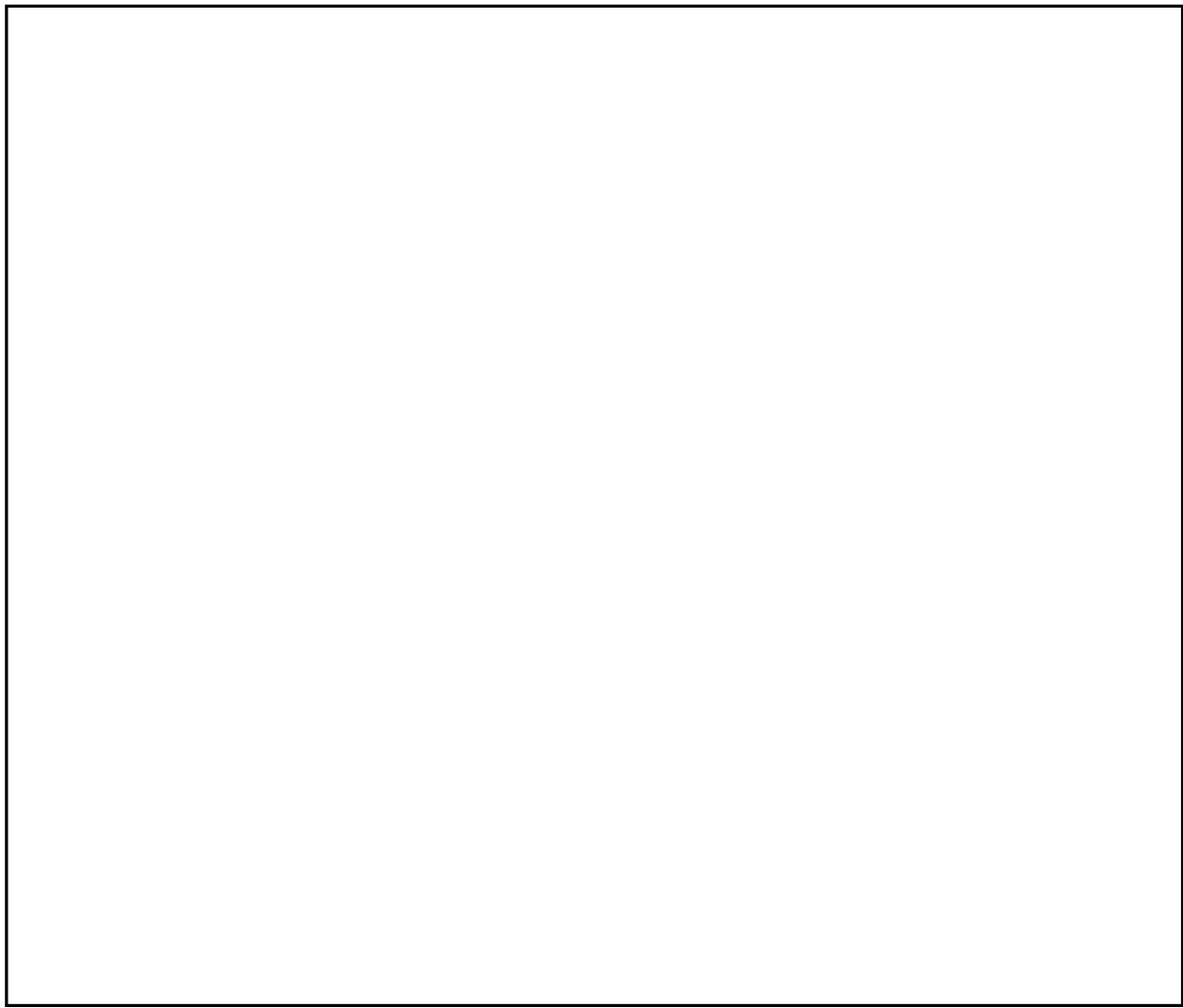
We had hoped that, in this work, we would benefit from the advice and assistance of GSA while retaining ultimate authority and responsibility and we stand ready today, as we have in the past, to work out an arrangement with GSA along these lines.

Recently, however, we have obtained and studied a copy of a letter from the Administrator of GSA to the Bureau of the Budget, dated August 26, 1955, copy attached, which states in effect that unless their position that, as a matter of law, they have the responsibility for design and construction of the building, they believe it would be better to remove GSA from any further participation.

In a conference which we had on 14 October with the Administrator of General Services, and Mr. Percival F. Brundage, Deputy Director of the Bureau of the Budget, in an effort to find a practical solution to the problem, Mr. Mansure clearly reaffirmed the position stated in the above mentioned letter, and left no alternative but to present to you the problem of law stated above.

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Sincerely,

AWD/ji (18 Oct 55)

Distribution

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1 - ER      1 - Gen. Counsel  
1 - Reading Enclosures (2)

Allen W. Dulles  
Director

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